

SECTION 4 SUPPORT FOR FAILED ASYLUM SEEKERS

When an asylum seeker comes to the end of the asylum process having been refused asylum and exhausted all appeal rights accommodation comes to an end. This can leave asylum seekers destitute without accommodation or financial support.

Section 4 of the Immigration and Asylum Act 1999, allows for the provision of support to former asylum seekers. This support consists of accommodation and vouchers only with no cash support. This only applies to a former asylum seeker with no child under 18 or whose child was born after they ceased to be an asylum seeker for support purposes. Section 4 is therefore predominately for asylum seekers with no children. Asylum Seekers with children continue to be considered as asylum seekers for support purposes until they leave the UK and will not require support under Section 4 although recent changes in the law will effect the provision of support to families ([please refer to the ASAP "Section 9 Fact Sheet – Withdrawal of Support for Failed Asylum Seekers"](#)).

The scheme for granting support under Section 4 (sometimes referred to as "hard case" support) has been amended and is now governed by Section 10 of the Asylum and Immigration (Treatment of Claimants) Act 2004. The Home Office have also published a new Policy Bulletin (71) which explains their policy on Section 4 Support. This can be viewed at www.ind.homeoffice.gov.uk.

To qualify for Section 4 support, a former asylum seeker has to meet certain conditions. These conditions can be found in the Immigration and Asylum (Provision of Accommodation to Failed Asylum-Seekers) Regulations 2005.

The first of these conditions is that the former asylum seeker is destitute. The applicant would have to show that they do not have accommodation and support for the next 14 days.

Having established that they are destitute, a former asylum seeker must then show they meet one of the following conditions:

S/he is taking all reasonable steps to leave the UK or place her/himself in a position in which s/he is able to leave the UK

"Reasonable steps" could include applying for a travel document, asking for assistance from the International Organisation for Migration in order to return voluntarily. Some people may find it difficult to obtain travel documents depending on their nationality but as long as the individuals are taking all reasonable steps to obtain documents they should continue to be eligible for Section 4 support until such documents can be obtained. The AST have, for example, granted support to cannot obtain documents due to

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What is Section 4 support?

Eligibility for Section 4 support

The information contained in this factsheet is intended for guidance only and whilst every effort is made to ensure it is correct at time of publication it should not be used as a substitute for legal advice. For client specific advice please contact the ASAP.

nationality disputes (see ASA 05/05/9315).

S/he is unable to leave the UK because of a physical impediment to travel or for some other medical reason

Evidence to this effect will be required and if a former asylum seeker is unable to travel they should obtain written documentation from a medical practitioner specifically stating they are unable to travel, for what reason and when they are likely to be able to travel. (please request our medical briefing for more information)

S/he has applied for judicial review of the decision on her/his asylum claim and s/he has been granted permission to proceed

For further information refer to the ASAP Fact Sheet “An introduction to Judicial Review”.

No viable route of return

There is currently no country to which this applies.

The provision of accommodation is necessary to avoid breaching a person’s ECHR rights

If someone has made fresh representations or a fresh claim for asylum and these contain information that differs from the original claim for asylum, support should not be withdrawn or refused until these have been considered by the Secretary of State. Some evidence of submission is required and a certificate of posting/recorded delivery number will usually suffice.

It has been established in AST decision 05/04/9178 that only the Secretary of State has the power to decide if a fresh asylum claim should be recorded and s.4 do not have the power to refuse support on the grounds that a fresh claim has no merit or reasonable chance of success. This case has been updated by AST decision 05/04/9572 and the position now stands that if a fresh claim has no content (for example if it is just a letter stating fresh representations are forthcoming) or if the fresh representations simply repeat previously considered material, s.4 are entitled to refuse support under Section 4 on the grounds that such submissions do not amount to a fresh claim.

If Section 4 support is refused or withdrawn then there is a right of appeal to the Asylum Support Adjudicators. Please refer to the ASAP Fact Sheet “Guidelines to Making an Appeal to the Asylum Support Tribunal”.

For more information and factsheets, visit www.asaproject.org.uk

ASAP Fact-sheets:

No 1: Asylum Support

No 2: Section 4 Support for Failed Asylum Seekers

No 3: What to Bring to the AST

No 4: Proving Destitution

No 5: After a Negative Decision at the AST

No 6: Section 9 Withdrawal of Support for Failed Asylum Seeker Families

No 7: Introduction to Community Care

No 8: Introduction to Judicial Review

No 9: The European Convention on Human Rights and The Human Rights Act 1998

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